

Remarks

Applicant includes herewith a petition for a two month extension to reply along with the appropriate fee and a credit card form. Although the amount provided on the credit card form is believed to be correct, permission is hereby granted to the U.S. Patent Office to increase or lower the amount on the credit card form as necessary to pay any required fees.

Applicant notes with appreciation the indication of allowance of claims 13-17 and the indication of patentability of claim 3 if amended in independent form as discussed in the Office Action.

Although not necessary for patentability, Applicant has amended claim 13 to clarify that the hardenable material is positioned whether by pouring, pumping, or the like. It is believed that this minor change will not affect the Examiner's previous indication of patentability of the claim.

Applicant has amended the drawings and the claims in accord with the Examiner's comments. Replacement sheets for the drawings are attached herewith.

Claims 8 and 9 are rejected under 35 U.S.C. 112 as being indefinite. Applicant has revised the claims in a manner believed to traverse the rejection.

Claim 10

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gregory (US 4,695,203). In order to establish a prima facie case under 35 U.S.C. 103(a) all the claim limitations must be taught or suggested by the prior art. The showing must be clear and particular. See, e.g., *C.R. Bard*, 157 F.3d at 1352, 48 USPQ2s at 1232. See M.P.E.P. 2143.03.

Applicant has revised claim 10 such that claim 10 now includes limitations that are not taught or suggested by Gregory. Accordingly, the rejection is respectfully traversed.

Gregory does not disclose anything about positioning liquid material which hardens beneath the foundation to thereby form a piston which is moveable within a cylinder. In fact, Gregory does not disclose anything about making a piston assembly from liquid material. Gregory simply utilizes a standard off-the-shelf hydraulic pump 48. Moreover, Gregory does not disclose that at least one of the piston or cylinders in a piston are positioned beneath the foundation as per the method of claim 10. With Gregory's method, the piston and cylinder hydraulic pump 48 are above the support 23 which itself is positioned directly below the foundation. It is also noted that the Examiner agrees that Gregory does not disclose a lifting length range of at least three feet but states it would be obvious to provide this for lifting a house. Certainly Gregory does not disclose a piston formed from original liquid material that produces a lifting length range of at least three feet. Because Gregory does not disclose all the claim limitations with a showing that is clear and particular as required to support a rejection under 35 U.S.C. 103, the rejection is respectfully traversed.

Claims 1, 2, 4-7, 8-9, 11 and 12.

Claims 1, 2, 4-7, 8-9, 11 and 12 are rejected as being unpatentable over Gregory in view of Mead et al (US 5,709,286). In order to establish a prima facie case under 35 U.S.C. 103(a) all the claim limitations must be taught or suggested by the prior art. The showing must be clear and particular. See, e.g., *C.R. Bard*, 157 F.3d at 1352, 48 USPQ2s at 1232. See M.P.E.P. 2143.03. Applicant has revised base claims 1 and 8 such that theses claims now include limitations that are not taught or suggested by Gregory or Mead. Accordingly, the rejection is respectfully traversed.

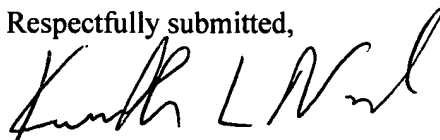
Neither Gregory nor Mead disclose a piston and a cylinder, each of which being originally in a fluid state when positioned in an excavation and which thereby harden to form a piston and a cylinder. As discussed above, Gregory utilizes a standard hydraulic piston and cylinder, apparently

bought off-the-shelf, that is not in a fluid state when placed in an excavation. Mead has nothing to do with lifting buildings or the difficulties involved in positioning lift means beneath a building. Mead installs a metallic screw assembly within a metallic cylinder, which is apparently what the Office Action indicates corresponds to a piston assembly, and clearly the metallic screw assembly is not in a liquid state when installed. In fact, Mead teaches away from the invention of installation of a fluid driven piston assembly because Mead instead replaces a fluid driven piston assembly with a screw assembly. Accordingly, Applicant respectfully submits that the rejection is traversed.

Summary:

The cited references does not disclose and plainly do not suggest all the limitations of the claims. Accordingly, it is respectfully submitted that the rejections to claims 1-17 are traversed. Accordingly, Applicant proposes that the application now stands in condition for allowance and earnestly requests that a Notice of Allowance to be issued forthwith in the near future.

Respectfully submitted,



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I hereby certify that this correspondence and its attachments are being facsimile transmitted to the USPTO or deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 18, 2004.

By: 